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09/898,679	07/03/2001	Emanuel Kulhanek	KULE101	1751
7590	09/08/2005		EXAMINER	
Holland Law Office, P.C. Suite 305 802 W. Bannock P.O. Box 1840 Boise, ID 83701			COLLINS, GIOVANNA M	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/898,679  
Filing Date: July 03, 2001  
Appellant(s): KULHANEK, EMANUEL

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Joseph W. Holland  
For Appellant

**MAILED**

**EXAMINER'S ANSWER**

SEP 08 2005

**GROUP 3600**

This is in response to the appeal brief filed 6/27/05 appealing from the Office action  
mailed 11/24/04.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

3,559,905

Palynchuk

2-1971

"Design Engineer Handbook", Bulletin 0224-B1 (1979), p. f-8

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Palynchuk '905 in view of Design Engineers Handbook.

Palynchuk discloses (see Figs. 1-2) a continuous feed injection unit (1), comprising a first hydraulic motor (see Fig. 2, at 13); a second hydraulic motor (13); cooperating continuous well string gripping chains (10) connected to be driven by the first and second hydraulic motors; a hydraulic power supply (see col. 4, lines 52-53) connected to provide pressurized fluid to the first and second hydraulic motors and the continuous chains (10) comprise a first continuous chain and a second continuous chain, the first continuous chain being driven by the first hydraulic motor and the second continuous chain being driven by the second hydraulic motor (see Fig. 2). Palynchuk discloses a control system (see col. 6, lines 16-19) but does not the control system has a motor speed control valve with two operating configurations and a motor direction control valve. The Design Engineers Handbook teaches (see page f-8, circuit f-16) a control system for a hydraulic motors (A, B) having a motor speed control valve (D2) with at least a first and second operating configuration, the first operating configuration providing power fluid to first and second hydraulic motors in parallel and the second operating configuration providing power fluid to first and second hydraulic motors in series (see paragraph under circuit f-16) and the control system for the hydraulic power supply incorporates a motor direction control valve (D1) through which the power fluid flows, the motor direction control valve been configured to reverse flow of power fluid

through the first and second hydraulic motors and each of the motors being connected to respective drain lines (near element label A and element label B) to a hydraulic fluid return to form an open loop hydraulic supply (see paragraph under circuit f-16). The Design Engineers Handbook teaches the control system allows the motors to have a high speed or a high torque (see paragraph under circuit f-16, lines 1-3). As it would be advantageous to make have the ability to operate the motors such that they can alternate between high speed and high torque, it would be obvious to modify the unit disclosed by Palynchuk to have the control system with motors speed control valve having first and second operating configurations and motor direction control valve as taught by Design Engineers Handbook.

#### **(10) Response to Argument**

In response to the argument that Palynchuk reference teaches away from the invention as claim, the Applicant is confusing teaching away with disclosing. The mere fact the Palynchuk reference does not disclose operating the motors in more than one operating configuration does not mean the reference teaches away being able to operate in more than one operating configurations. Nowhere in the Palynchuk reference is there any suggest that the motors cannot operate in series. Therefore, the motors disclosed by Palynchuk are capable of being able to operate in a series configuration.

In response to the argument the references to do acknowledge a problem identified by the applicant, the Applicant is arguing limitations that are not claimed. The claim does not recite pulling the drill string slowly through a viscous fluid than rapidly

through to the surface one the drill string is free of a viscous fluid. Therefore, the fact that the Palynchuk reference or Design Engineers Handbook do not suggest using a dual configuration for pulling the drill string slowly through a viscous fluid then rapidly to the surface one the drill string is free of a viscous fluid is moot since the feature is not recited in the claims. Furthermore, it has been held that the mere fact the reference relied on by the Patent and Trademark Office fail to evince an appreciation of the problem identified and solved by the applicant is not, standing alone, conclusive evidence of the nonobviousness of the claimed subject matter. The references may suggest doing what an applicant has done even though workers in the art were ignorant of the existence of the problem. *In re Gershon*, 152, USPQ 602 (CCPA 1967).

In response to the argument, there is no suggestion to combine the references, the motivation to combine the references is found in the Design Engineers Handbook, which states operating hydraulic motors in series and parallel operating configurations allows the motors to have high speed (when operated in series) or high torque (when operated in parallel) (see paragraph below circuit f-16). Therefore, it would be obvious to modify the unit disclosed by Palynchuk to have the control system with motors speed control valve having first and second operating configurations and motor direction control valve as taught by Design Engineers Handbook in order to be able for the motors to alternate between high torque and high speed.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Giovanna M. Collins

Conferees:

djb



jhg



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